THE HONOURABLE SRI JUSTICE V.ESWARAIAH

W.P. No. 22695 of 2007

Date:26-10-2007

Between:

Boinapalli Venkata Satya Jagan Mohan Rao and another

…Petitioners

AND

The Revenue Divisional Officer, Eluru and another

..

Respondents

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ORDER:

The petitioners seek a writ of mandamus to direct the respondents not to take physical possession of the dry lands an extent of Ac.04.37 cents and Ac.04.28 cents in Sy.Nos.381/1 and 381/3 situated in Bandivarigudem village of T.Narsapuram mandal of West Godavari District from them and set aside the Proce.Assignment Appeal Spl.Regr.No.(D)34/2007, dated 12.10.2007 of the first respondent, in which he rejected to stay the proceedings issued in Rc.No.40/2007(A), dated 17.07.2007 & 23.07.2007 by the second respondent pending disposal of the Assignment Appeal Spl.Regr.No. (D)34/2007 by the first respondent by holding that not granting stay of dispossession pending disposal of the appeal, as illegal and arbitrary.

It is the case of the petitioners that as against the resumption orders passed by the second respondent in Ref.No.40/2007(A), dated 17.07.2007 and 23.07.2007 in ordering for resumption of the lands of an extent of Ac.4.37 cents in R.S.No.381/1 situated at Bandivaripalem village, T.Narsapuram mandal from the possession of the first petitioner and an extent of Ac.04.28 guntas in R.S.No.381/3 from the possession of the second petitioner on the ground that the lands are assigned in favour of Katreddi Peda Ramulu and Katreddi Subba Rao. But, the petitioners have purchased the said lands in contravention of Section 3(1) of the A.P. Assigned Land (Prohibition of Transfer), Act (for short 'the Act'). It is stated that as the petitioners being the wife and husband and the proceedings are common but dates are different,

joint appeal has been filed before the Revenue Divisional Officer, Eluru and the appeal has been admitted in Assignment Appeal Spl.Regr.No.(D)34/2007, but the stay application has been rejected by order, dated 12.10.2007. Aggrieved by the action of the first respondent in rejecting the stay application filed by the petitioners, this writ petition has been filed.

I am not inclined to express any opinion with regard to the merits of the case. If the said lands are assigned lands and purchase of the same is in contravention of Section 3(1) of the Act, the said lands are liable to be resumed to the government. However, as the appeal is pending, it is not just and proper to dispossess the petitioners from the said land.

Having regard to the facts of the case, the first respondent is directed to consider and dispose of the Assignment Appeal Spl.Regr.No.(D)34/2007 filed against the aforesaid orders of the second respondent as expeditiously as possible without any undue delay. Pending disposal of the said appeal, status-quo obtained as on today with regard to the possession of the lands shall be maintained.

With the aforesaid directions, the writ petition is disposed of. There shall be no order as to costs.

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V.ESWARAIAH, J.

Date:26.10.2007

Note:

Issue C.C. by Monday.

B/O

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